



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2009 Biennium

Bill #	SB0539	Title:	Revise property tax appeal and create property tax protest reserve fund
Primary Sponsor:	Wanzenried, David E	Status:	As Amended in Senate Committee

- | | | |
|---|---|--|
| <input type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input checked="" type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
Expenditures:				
General Fund	\$14,500,000	\$0	\$0	\$0
State Special Revenue	\$0	\$0	\$0	\$0
Revenue:				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	\$16,278,000	\$1,974,000	\$2,181,000	\$2,402,000
Net Impact-General Fund Balance	<u>(\$14,500,000)</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

Description of fiscal impact:

This bill creates a new centrally assessed property tax protest risk management program. This program (1) guarantees participating counties receive 90% of their share of protested taxes, (2) requires that protested property tax revenue is shared between the state and a county when the state's defense of assessed values results in collection of more than 90% of the protested amount, and (3) manages the state's share of protested taxes. A transfer of \$14.5 million from the general fund will be used to establish a new property tax risk management fund.

FISCAL ANALYSIS

Assumptions:

1. Under current law, when a centrally assessed taxpayer protests its property taxes:

- the local taxing jurisdiction retains the protested local tax payments and deposits them in a county protested tax fund. If the protest is not resolved within a year, local taxing jurisdictions may withdraw funds from this account, but must repay, with interest, any amounts eventually refunded to the taxpayer.
 - Half of the protested university system tax payments are distributed to the university system, and half are deposited in the property tax protest fund created in 15-1-402(4)(b), MCA.
 - Half of the protested state school equalization tax payments are deposited in the state general fund, and half are deposited in the property tax protest fund.
2. This bill replaces the protested property tax payment special revenue fund with a new property tax payments protest risk management fund. This fund will be managed by the Board of Investments and will retain its interest earnings. At the beginning of FY 2008, \$14.5 million will be transferred from the general fund to the new property tax risk management fund.
 3. Funds deposited in the existing protested property tax special revenue fund from protests of taxes through tax year 2006 will remain in that fund until the protests are resolved and then the funds will be disbursed as under current law.
 4. Counties will choose whether to participate in the risk management program for tax protests on centrally assessed property that occur after tax year 2006.
 5. If the county participates, at the time of the protest:
 - a. local taxing jurisdictions will retain, and may spend, 90% of the protested local taxes;
 - b. the county must send 10% of the protested local taxes to the state to be deposited in the property tax risk management fund; and
 - c. half of the protested school equalization and university taxes will be distributed to the general fund and the university system, and half will be retained in the property tax risk management fund.

When the protest is resolved:

- d. any amount to be refunded to the taxpayer, for both state and local taxes, will be paid from the risk management fund (local jurisdictions will make no refunds);
 - e. if the school equalization and university taxes originally deposited in the risk management fund are more than the amount of these taxes refunded, the excess will be distributed to the general fund and the university system;
 - f. if the school equalization and university taxes originally deposited are less than the amounts refunded, the general fund and university system will repay the difference to the risk management fund; and
 - g. if local taxes refunded to the taxpayer are less than the amount originally deposited in the risk management fund, half of the difference will be paid out to the county and half will be retained in the fund.
6. If the county does not participate, protested local taxes will be handled as under current law. Protested state taxes will be handled as under current law except that the 50% that, under current law, was deposited in the existing protested property tax fund will be deposited in the new risk management fund.
 7. Based on recent experience, \$11.641 million of centrally assessed property taxes will be protested each year. Taxes from the 6 mills for the university system will account for 1.52% of the total, or \$0.177 million. Taxes from the 95 mills for school equalization will account for 24.01% of the total, or \$2.795 million. Distributions to the university system and deposits to the general fund will be the same as under current law. The amount of state taxes that would have been deposited in the old property tax protest fund under current law, \$1.486 million, will be deposited in the new risk management fund.
 8. Local taxes will account for 74.47% of the amount protested, or \$8.669 million. Assuming that all affected counties choose to participate in the risk management program, they will send 10% of the protested local taxes, or \$0.867 million, to the state to be deposited in the risk management account.

9. When centrally assessed property taxes are protested, the final amount to be paid is not determined until the taxpayer and the Department of Revenue have exhausted the administrative and judicial review processes. For the purposes of this fiscal note, this process is assumed to take five years. The first payments from the risk management fund will be made in FY 2012 and are described in the long range impact section.
10. The risk management fund will earn 6% interest each year. Interest will be earned on the beginning balance for the full year. Half of new deposits will be made in December and earn interest for six months and half will be made in June and earn interest for one month. The following table shows deposits to the risk management fund, interest earnings, and beginning and ending balances for FY 2008 through FY 2011, all in millions of dollars.

Table 1
Balance of Property Tax Risk Management Fund

	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>
Beginning Balance	\$14.500	\$17.764	\$21.224	\$24.891
PLUS 95 mill levy deposit	\$2.795	\$2.795	\$2.795	\$2.795
PLUS 6 mill levy deposit	\$0.177	\$0.177	\$0.177	\$0.177
PLUS 10% of local protest amount	\$0.867	\$0.867	\$0.867	\$0.867
PLUS interest earnings	\$0.911	\$1.107	\$1.315	\$1.535
LESS general fund paid to state funds (50%)	\$1.40	\$1.40	\$1.40	\$1.40
LESS university system paid to state funds (50%)	<u>\$0.09</u>	<u>\$0.09</u>	<u>\$0.09</u>	<u>\$0.09</u>
Ending Balance	<u>\$17.764</u>	<u>\$21.224</u>	<u>\$24.891</u>	<u>\$28.779</u>

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
<u>Fiscal Impact:</u>				
FTE	0.00	0.00	0.00	0.00
<u>Expenditures:</u>				
Transfers	\$14,500,000	\$0	\$0	\$0
TOTAL Expenditures	\$14,500,000	\$0	\$0	\$0
<u>Funding of Expenditures:</u>				
General Fund (01)	\$14,500,000	\$0	\$0	\$0
State Special Revenue (02)	\$0	\$0	\$0	\$0
Property Tax Protest Fund	\$0	\$0	\$0	\$0
Protest Risk Management Fund	\$0	\$0	\$0	\$0
TOTAL Funding of Exp.	\$14,500,000	\$0	\$0	\$0
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$0	\$0	\$0	\$0
Property Tax Protest Fund	(\$1,486,000)	(\$1,486,000)	(\$1,486,000)	(\$1,486,000)
Protest Risk Management Fund	\$17,764,000	\$3,460,000	\$3,667,000	\$3,888,000
TOTAL Revenues	\$16,278,000	\$1,974,000	\$2,181,000	\$2,402,000
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	(\$14,500,000)	\$0	\$0	\$0
State Special Revenue (02)	\$16,278,000	\$1,974,000	\$2,181,000	\$2,402,000
Property Tax Protest Fund	(\$1,486,000)	(\$1,486,000)	(\$1,486,000)	(\$1,486,000)
Protest Risk Management Fund	\$17,764,000	\$3,460,000	\$3,667,000	\$3,888,000

Effect on County or Other Local Revenues or Expenditures:

1. Under current law, the local share of protested property taxes is to be deposited in a county protested property tax fund. Local governments and schools must choose to either reduce their budgets by the amount of protested taxes or request those taxes from the county protested property tax fund. Local governments must repay any amounts withdrawn from the county protested property tax fund that are successfully protested, plus interest.
2. Under this bill, local governments and school districts in counties that choose to participate in the property tax protest risk management program would immediately receive and be able to spend 90% of the amount of property taxes protested by centrally assessed taxpayers in their jurisdictions. This is more than the average percentage of protested centrally assessed taxes finally paid. When the amount finally paid is more than 90% of the amount protested, the state would pay local governments half of the difference between the local taxes finally paid and 90% of the amount protested.
3. On average, local governments and school districts will receive more revenue under this bill, and their revenue amounts will be less uncertain.

Long-Range Impacts:

1. The first payments from the property tax protest risk management fund resulting from resolution of protests of FY 2008 property taxes will be made in FY 2012.
2. For centrally assessed property tax protests resolved between 2001 and 2005, taxpayers ultimately paid between 15% and 110% of the amount protested, with the average being 69.1%. Assuming this distribution of the ratio of taxes paid to taxes protested remains the same into the future, average income and expenses for FY 2012 will be:

Table 2 Property Risk Management Fund Income and Expenses at 69.1% Protested Tax Payment For FY 2012	
Net Deposits (95 mill, 6 mill, 10% of local)	\$2.353
Interest Earnings	\$1.768
Payment from General Fund	\$0.045
Payment from University System	\$0.003
Total Income to Prop. Risk Mgmt. Fund	\$4.169
Refunds to Taxpayers	(\$4.208)
Payment to General Fund	(\$0.579)
Payment to University System	(\$0.037)
Payment to Counties	(\$0.052)
Total Expenditure to Prop. Risk Mgmt. Fund	(\$4.876)
Net Annual Loss of Prop. Risk Mgmt. Fund	<u>(\$0.707)</u>

Table 2 shows funds paid to and from the general fund and university system. The general fund and university system receive additional taxes when more than 50% of the amount protested is ultimately paid and must repay the risk management fund when less than 50% of the protested amount is ultimately paid.

3. If the ratio of taxes ultimately paid to the amount protested stays the same, annual payouts will be more than annual deposits and interest earnings, and the balance in the risk management fund would reach zero by about FY 2035.
4. Considering the changes to the assessment, protest, and appeals processes in this bill, differences between protested amounts and taxes ultimately paid should be lower in the future. If the difference between protested amount and taxes ultimately paid had been one-fifth lower for protests resolved between 2001 and 2005, taxpayers would have paid 75.4% of the amount protested. If this ratio continues into the future, average income and expenses for FY 2012 will be:

Table 3
Property Risk Management Fund Income and
Expenses at 75.4% Protested Tax Payment for
FY 2012

Net Deposits (95 mill, 6 mill, 10% of local)	\$2.353
Interest Earnings	\$1.768
Payment from General Fund	\$0.009
Payment from University System	\$0.001
Total Income to Prop. Risk Mgmt. Fund	\$4.130
Refunds to Taxpayers	(\$3.303)
Payment to General Fund	(\$0.729)
Payment to University System	(\$0.046)
Payment to Counties	(\$0.052)
Total Expenditure to Prop. Risk Mgmt. Fund	(\$4.130)
Net Annual Gain of Prop. Risk Mgmt. Fund	\$0.001

5. If taxpayers pay 76.9% of the amount protested, the balance in the risk management fund will grow slowly over time.

Sponsor's Initials

Date

Budget Director's Initials

Date